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OFFICE OF PETITIONS

In re Application of :
Safronov et al. :
Application No. 09/601,913 :
Filed: 8 August, 2000 :
Att'y Docket No. V-177 :
:

ON PETITION

This is a decision on the petition under 1.137(b),¹ filed on 6 May, 2003, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on 25 March, 2003, for failure to submit a proper Appeal Brief in triplicate in response to the Notice of Appeal filed on 27 February, 2002. Petitioners filed an Appeal Brief on 6 May, 2002, but on 10 December, 2002, a

¹Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

Notification of Non-Compliance with the Requirements of 37 CFR 1.192(c) was mailed, stating that the appeal brief was defective and that a corrected appeal brief was required. A corrected brief was filed on 13 January, 2003. In response, on 25 March, 2003, an Office communication was mailed stating that the revised brief did not overcome all of the reasons for which the original brief was determined to be non-compliant, and that the appeal was dismissed, and the application abandoned. The petition to withdraw the holding of abandonment filed on 6 May, 2003, was dismissed on 7 October, 2004. The petition under 37 CFR 1.137(b) has been forwarded to the Office of Petitions for consideration.

The present petition is accompanied by a corrected Appeal Brief.

The statement contained in the instant petition does not set forth that the entire delay from the due date of the required reply to the date of the filing of a grantable petition was unintentional as required by 37 CFR 1.137(b)(3). However, the statement contained in the instant petition is being so construed. Petitioner **must** notify the Office if this is not a correct interpretation.

The address listed on the petition is different than the correspondence address of record. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

The application file is being forwarded to Technology Center 3700 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.


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